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**D E C I S I O N**  
**of 12 October 2004**

**Case Number:** T 0002/02 - 3.2.2

**Application Number:** 99108146.4

**Publication Number:** 0983745

**IPC:** A61B 5/028

**Language of the proceedings:** EN

**Title of invention:**

Site coding for medical devices for introduction into a patient's body

**Applicant:**

Koninklijke Philips Electronics N.V.

**Opponent:**

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**Headword:**

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**Relevant legal provisions:**

EPC Art. 52(4), 84, 123(2)

**Keyword:**

"Claims formally acceptable, after amendments"  
"Remittal for further prosecution"

**Decisions cited:**

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**Catchword:**

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Case Number: T 0002/02 - 3.2.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.2  
of 12 October 2004

**Appellant:** Koninklijke Philips Electronics N.V.  
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**Representative:** Kehl, Günther, Dipl.-Phys.  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 8 May 2001  
refusing European application No. 99108146.4  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** T. K. H. Kriner  
**Members:** M. G. Noel  
U. J. Tronser

## Summary of Facts and Submissions

- I. European patent application No. 99 108 146.4 was refused by decision of the Examining Division dated 8 May 2001 on the grounds that the method claims according to any of the main or the auxiliary requests did not satisfy the requirements of Article 52(4) or 123(2) EPC.
- II. The appellant (applicant) lodged an appeal against this decision on 17 May 2001. The appeal fee was paid simultaneously and the statement setting out the grounds of appeal was filed on 3 September 2001.
- III. Oral proceedings were held on 12 October 2004.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 4 submitted at the oral proceedings.

- IV. Claim 1 reads as follows:

"A blood vessel catheter (2) for measuring a physiological parameter, comprising encoding means for coding information specific for an application of said catheter and a connector, said connector comprising a plurality of contacts (10.1, 10.2, 10.3) for providing a signal representing said physiological parameter and one or more additional contacts (12i) for connecting encoding means (17, 18, 19),  
characterized

in that the information specific for said application is the site of the application of said catheter (2) and/or the effect of said site on the measurement of

said physiological parameter, and in that said encoding means comprises an impedance bridge (17, 18), preferably a resistance, and/or a capacitive, and/or inductive bridge, and/or conductive bridging members (18) and/or a memory (19)".

## **Reasons for the Decision**

1. The appeal is admissible
2. *Amendments*

Since the amended claims do no longer refer to a method the objections based on Article 52(4) EPC are no longer relevant.

The requirements of Article 123(2) EPC are also met since the amendments made are all supported by the description and do not extend the claimed subject-matter beyond the content of the application as filed. In particular:

The preamble of claim 1 is formed by a combination of features from the original claims 4, 5, 6 and 8, implemented by some indications ("encoding means for coding information") drawn up from the description (page 5, lines 8 to 11 and page 7, lines 10 to 17).

The characterising portion is formed by a combination of features from the original claims 3 and 4.

Claim 2 is based on features taken from the application on page 8, lines 12 to 15 and from page 8, line 25 to page 9, line 14.

Claims 3 and 4 are based on original claims 3 and 6, respectively.

3. *Remittal*

Since the decision of refusal was exclusively based on formal objections, and since the grounds for these objections are now removed, the Board finds it appropriate to remit the case to the first instance for further prosecution on the substantive issues.

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
  
2. The case is remitted to the first instance for further prosecution on the basis of claims 1 to 4 submitted at the oral proceedings.

The Registrar:

The Chairman:

V. Commare

T. Kriner